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10 **UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

11
12 In re: No.: 03-22581
13 ONENAME CORPORATION, PLAN OF REORGANIZATION Dated
14 Debtor. April 14, 2005

15 **OneName Corporation, as debtor and debtor-in possession, proposes this Plan of
16 Reorganization pursuant to § 1121 (a) of the United States Bankruptcy Code.**

17 **ARTICLE I - DEFINITIONS AND INTERPRETATION**

18 1. The following boldface terms, when capitalized, shall have the meanings
19 specified below, and such meanings shall be equally applicable to the singular and plural
20 forms of such terms. Any term used in this Plan that is not defined herein, but is defined in
21 the United States Bankruptcy Code or the Federal Rules of Bankruptcy Procedures, shall
22 have the meaning ascribed to that term in the Code or the Bankruptcy Rules.

23 **1.1 Administrative Expense Claim** means a Claim or portion of a Claim allowed
24 under Code § 503(b) and entitled to priority under Code § 507(a)(1). This shall include any
25

1 cure costs under Assumed Contracts and Leases as determined by this Court pursuant to the
2 procedures approved by this Court to fix such cure costs.

3 **1.2 Allowable § 506(b) Amounts** means all fees, costs, expenses, interest and other
4 charges due or coming due in respect of a Secured Claim to the extent allowable under Code
5 § 506(b).

6 **1.3 Allowed**, when used with respect to any Claim or Interest, means the Claim or
7 Interest or applicable portion thereof that has been allowed pursuant to Code § 502, and, if
8 the Claim or Interest was objected to, means that a Final Order has been entered allowing the
9 Claim or Interest pursuant to Code §502. Unless otherwise specified, the term Allowed does
10 not include (i) interest on the amount of such Claim accruing from and after the Petition
11 Date, (ii) fees and costs incurred from and after the Petition Date, (iii) punitive or exemplary
12 damages or (iv) any fine, penalty or forfeiture.

13 **1.4 Assumed Contracts and Leases** means those executory contracts and unexpired
14 leases designated by the Debtor from time to time as ones to be assumed on or before the
15 Effective Date, subject to any additions or deletions to such list by the Debtor prior to the
16 Effective Date or as otherwise provided in Article 9 of this Plan.

17 **1.5 Ballot** means each of the ballot forms distributed with the Disclosure Statement to
18 holders of Impaired Claims and Impaired Interests.

19 **1.6 Ballot Date** means the date which the Court sets for submission of Ballots on this
20 Plan.

21 **1.7 Bankruptcy Rules** mean the Federal Rules of Bankruptcy Procedure, as amended
22 and promulgated under § 2075 of Title 28 of the United States Code and local rules of the
23 Court.

24 **1.8 Case** means the above-captioned bankruptcy case.

25 **1.9 Causes of Action** means any and all causes of action of the Debtor, whether
26 arising under the Code or other state, federal or common law, including, without limitation,

1 actions under Article V of the Code, but, for the avoidance of doubt, shall not include any
2 causes of action against other parties to the extent released under prior orders in the Case or
3 pursuant to Paragraph 7.15 of this Plan or the Confirmation Order.

4 **1.10 Claim** means, as against the Debtor, (i) a right to payment, whether or not
5 such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured,
6 unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (ii) a right to an
7 equitable remedy for breach of performance if such breach gives rise to a right to payment,
8 whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent,
9 matured, unmatured, disputed, undisputed, secured or unsecured.

10 **1.11 Class** means a category or group of holders of Claims or Interests as
11 designated in Article 3 of this Plan pursuant to Code § 1122(a)(1).

12 **1.12 Closing** means the closing of the Convertible Financing contemplated hereby
13 and in the Term Sheet.

14 **1.13 Closing Date** means the date on which the Closing occurs.

15 **1.14 Code or Bankruptcy Code** means the Bankruptcy Reform Act of 1978, as
16 amended, 11 U.S.C. §§ 101 et. sec.

17 **1.15 Committee** means the Official Unsecured Creditors' Committee appointed by
18 the Office of the United States Trustee for the Western District of Washington.

19 **1.16 Committee-Related Parties** shall have the meaning set forth in
20 Paragraph 7.15 of this Plan.

21 **1.17 Company-Related Parties** shall have the meaning set forth in Paragraph 7.15
22 of this Plan.

23 **1.18 Confirmation** means the entry of the Confirmation Order by the Court
24 pursuant to Code § 1129.

25 **1.19 Confirmation Date** means the date that the Court enters the Confirmation
26 Order.

1 **1.20 Confirmation Hearing** means the hearing to consider confirmation of this
2 Plan.

3 **1.21 Confirmation Hearing Date** means the date on which the Court holds the
4 Confirmation Hearing.

5 **1.22 Confirmation Order** means the order of the Court confirming this Plan.

6 **1.23 Contested Claim** means a Claim against or Interest in the Debtor, as the case
7 may be, to which an objection has been filed by a party in interest and which objection has
8 not been resolved as of a Final Order, or otherwise.

9 **1.24 Contested Claim Reserve** means the reserve maintained for the benefit of
10 holders of Contested Claims in the aggregate asserted amount of Contested Claims to allow
11 sufficient funds for a Pro Rata distribution if ultimately Allowed, unless the Court determines
12 a lesser amount is appropriate after notice to holders of affected Contested Claims and a
13 hearing.

14 **1.25 Convertible Financing** means the convertible financing pursuant to Article
15 VIII of the Plan.

16 **1.26 Convertible Financing A-Note** means a note issued to a particular holder
17 pursuant to the Convertible Financing having a conversion rate of one share of New
18 Preferred Stock for each \$.81 of the liability on the note. (Substantially in the form attached
19 as Exhibit C hereto.)

20 **1.27 Convertible Financing B-Note** means a note issued to a particular holder
21 pursuant to the Convertible Financing having a conversion rate of one share of New
22 Preferred Stock for each \$4.05 of the liability on the note. (Substantially in the form attached
23 as Exhibit D hereto.)

24 **1.28 Convertible Financing Closing** means the final closing of the Convertible
25 Financing which will take place as soon as practicable following the Subscription Expiration
26 Date.

1 **1.29 Convertible Financing Offering** means the offering to participate in the
2 Convertible Financing to Creditors and Interestholders, as more fully described in Article 8
3 of this Plan.

4 **1.30 Court** means the United States Bankruptcy Court for the Western District of
5 Washington, or such other court of competent jurisdiction exercising jurisdiction over all or
6 part of the Case.

7 **1.31 Creditor** means the holder of a Claim (other than as holder of an
8 Administrative Expense Claim).

9 **1.32 Debtor** means the debtor in this Case as a debtor and debtor-in-possession.

10 **1.33 DIP Financing Facility** means the debtor-in-possession financing facility
11 provided to the Debtor by the Postpetition Lenders, or any successor financing facility.

12 **1.34 DIP Financing Order** means that certain Final Order Authorizing Post-
13 Petition Borrowing After Final Hearing as entered by the Court on November 10, 2003
14 approving the DIP Financing Facility and any amendments or extensions thereof.

15 **1.35 DIP Lenders:** (see definition of Postpetition Lenders)

16 **1.36 Disallowed**, when used with respect to a Claim, means that the Claim or
17 applicable portion thereof has been determined by a Final Order to be invalid.

18 **1.37 Disbursing Agent** means any agent the Debtor elects to employ to make
19 distributions to one or more Classes of Claims under this Plan.

20 **1.38 Disclosure Statement** means the disclosure statement filed under Code § 1125
21 in support of this Plan.

22 **1.39 Effective Date** means the later of (i) the Closing Date or (ii) the eleventh day
23 after the Confirmation Date, calculated in accordance with Bankruptcy Rule 9006, unless the
24 Confirmation has been stayed, in which event it is the first day after such stay is no longer in
25 effect, or such later date as the Debtor shall elect in writing.

1 **1.40 Epok Transaction** means the definitive agreement reached between Epok,
2 Inc. on the one hand and OneName on the other for the assignment by OneName to Epok or
3 a designee of Epok, approved by OneName, of various software programs and mutual
4 releases as set forth therein.

5 **1.41 Exchange Note Holders** means the individual lenders who provided the
6 Debtor with prepetition exchange debt financing.

7 **1.42 Final Order** means an order or judgment, the operation or effect of which has
8 not been stayed, reversed, modified, or amended and as to which order or judgment the time
9 to appeal, petition for certiorari, or seek reargument, review or rehearing has expired and as
10 to which no appeal, petition for certiorari or motion for reargument, review or rehearing was
11 timely filed or, if timely filed, the order or judgment has been affirmed by the highest court
12 to which the order or judgment was appealed or from which the reargument or rehearing was
13 sought, or certiorari has been denied, and the time to file any further appeal or petition for
14 certiorari or to seek further reargument or rehearing has expired.

15 **1.43 Impaired** means, when used with reference to a Claim or Interest, a Claim or
16 Interest that is impaired within the meaning of Code § 1124.

17 **1.44 Interest** means an equity interest in the Debtor.

18 **1.45 Interestholder** means the holder of an Interest.

19 **1.46 Kosmos Notes** means the six (6) Promissory Notes issued by George C.
20 Kosmos, as obligor, to the benefit of OneName. These Promissory Notes were issued
21 between the dates of December 28, 2000, and September 5, 2001. These Promissory Notes,
22 along with accrued interest, are payable within five (5) days of demand by the noteholder for
23 such payment.

24 **1.47 Kosmos Note Claims** means all of the Debtor's right, title and interest,
25 including offset rights related to the enforcement and collection of the Kosmos Notes.

1 **1.48 Lien** means a charge against or interest in property to secure payment of a debt
2 or performance of an obligation.

3 **1.49 Management and Employee Incentive Plan** means the Reorganized Debtor's
4 Management and Employee Incentive Plan adopted as of the Effective Date by the
5 Reorganized Debtor pursuant to ¶ 7.16 of the Plan.

6 **1.50 New Common Stock** means the newly-issued shares of common stock of
7 Reorganized Debtor.

8 **1.51 New Preferred Stock** means the newly authorized and to be issued shares of
9 preferred stock of Reorganized Debtor having the rights and preferences set forth in the Term
10 Sheet.

11 **1.52 OneName Liquidation Trust** means that certain OneName Liquidation Trust
12 established pursuant to this Plan and administered pursuant to the terms of the OneName
13 Liquidation Trust Agreement attached as Exhibit F to this Plan of Reorganization.

14 **1.53 Option Rights** means the right to purchase shares of stock in the Debtor,
15 whether denominated as common options, common warrants, E preferred warrants, or any
16 other right.

17 **1.54 Patent Litigation** means all litigation the Debtor commences to enforce its
18 pre-petition patents.

19 **1.55 Petition Date** means September 30, 2003.

20 **1.56 Plan** means this Plan of Reorganization, as the same may be amended from
21 time to time pursuant to the Plan's terms, the Code or the Bankruptcy Rules and, as
22 applicable, exhibits and schedules referenced therein, whether on file with this document or
23 filed prior to the Confirmation Hearing Date.

24 **1.57 Plan Supplement** means one or more supplements to the Plan containing
25 documents contemplated to implement the Plan.

1 **1.58 Postpetition Lenders** means the individual lenders who provided the Debtor
2 with the DIP Financing approved by the Bankruptcy Court, together with any successors and
3 assigns. (Also referred to as the DIP Lenders).

4 **1.59 Prepetition Secured Note Holders** means the individual lenders who
5 provided the Debtor with prepetition secured debt financing.

6 **1.60 Professionals** means any Court-approved professional Person employed by
7 the applicable entity in this Case at any time before Confirmation.

8 **1.61 Pro Rata** means the proportion that the amount of an Allowed Claim or
9 Allowed Interest in a particular Class or Subclass bears to the aggregate amount of all
10 Allowed Claims or Allowed Interests in such Class or Subclass (including any Contested
11 Claim Reserve).

12 **1.62 Releasing Parties** means Loren West, Lance Hood, Richard White, Sean
13 Boltman, Bert Garcia, Jeff Haux, Juan Maldonado, Dave McAlpin, Kelly Price, Tod
14 Whitman, Drummond Reed and Chris Kosmos, all of whom are makers of Stockholder
15 Notes in favor of OneName.

16 **1.63 Remaining Net Recovery** means the amount by which the aggregate of any
17 and all proceeds received from the Patent Infringement Claim exceeds the aggregate of (a)
18 the reasonable and necessary expenses incurred by the Company in pursuing the litigation or
19 on account of any recovery, including payment of all tax obligations, fees, costs and
20 expenses (b) any obligation that may be due and payable to Lloyds of London under the
21 terms of the Licensing Failure Insurance Policy and (c) all payments to the holders of
22 Allowed Secured Claims and Allowed Unsecured Claims pursuant to the terms of ¶ 7.3.
23 Remaining Net Recovery shall not mean or include any value for a “presumed economic
24 benefit” as that term is defined under the Licensing Failure Policy.

25 **1.64 Reorganized Debtor** means the Debtor as reorganized pursuant to this Plan.

26 **1.65 Restated By-Laws** has the meaning set forth in Paragraph 7.12.

1 **1.66 Restated Articles of Incorporation** has the meaning set forth in Paragraph
2 7.12.

3 **1.67 Secured Claim** means a secured Claim within the meaning of Code § 506.

4 **1.68 Secured Exchange Notes** means the exchange notes which became secured
5 by reason of a Prepetition Secured Note Holder's participation in the secured debt financing.

6 **1.69 Settlement Agreement and Release** means the Settlement Agreement and
7 Release by and between the Debtor, the Reorganized Debtor, the Estate and the Releasing
8 Parties, substantially in the form attached hereto as Exhibit G.

9 **1.70 Secured Trust Creditor** means the holders of Allowed Claims in SubClasses
10 2(b), 2(c), 2(d), and 2(e) to the extent of the amount of the Allowed Claim for which such
11 Class 2 claimant does not elect a Convertible Financing A Note or a Convertible Financing B
12 Note; provided, however, that Perkins Coie shall not be a Secured Trust Creditor on account
13 of its SubClass 2(a) or 2(c) Allowed Claim.

14 **1.71 Stockholder Notes** means the Exercise Notice and Stock Purchase Agreement
15 – Amended and Restated 1995 Stock Incentive Plan (For Early Exercise) executed by former
16 employees of the Debtor to purchase stock in the Debtor and all of its Attachments,
17 including, but not limited to, the form of a Full-Recourse Promissory Note. Stockholder
18 Notes also incorporates the First Amendment to Exercise Notice and Stock Purchase
19 Agreement and such Settlement Agreements as OneName may have entered into with
20 individuals at the time of their termination of employment. These notes, along with accrued
21 interest, are due October 6, 2005.

22 **1.72 Stockholder Note Claims** means all of the Debtor's right, title and interest,
23 related to the enforcement and collection of the Stockholder Notes.

24 **1.73 Subclass** means a subclass of any Class as designated in Article 3 of the Plan.

25 **1.74 Subscription** means a subscription to participate in the Convertible Financing
26 pursuant to the Convertible Financing Offering.

1 **1.75 Subscription Commitment Agreement** means the binding commitment to be
2 executed by Creditors or Interestholders pursuant to which such Creditors or Interestholders
3 commit to provide funds in exchange for the issuance of a Convertible Financing A-Note
4 pursuant to the Convertible Financing Offering, which commitment agreement shall be in
5 substantially the same form as the one to be contained in the Plan Supplement.

6 **1.76 Subscription Expiration Date** means the date 30 days after the Confirmation
7 Date.

8 1.77 **Tax Code** means the Internal Revenue Code of 1986, as amended.

9 **1.78 Term Sheet** means that term sheet for the company's secured convertible debt
10 offering dated September 3, 2003 and any subsequent amendment thereto. A copy of the
11 Term Sheet is attached hereto as Exhibit B.

12 **1.79 Unimpaired** means, when used with reference to a Claim or Interest, a Claim
13 or Interest that is not impaired within the meaning of § 1124 of the Code.

1.80 Unsecured Claim means a Claim other than a Secured Claim, an
Administrative Expense Claim or a Priority Tax Claim

16 **1.81 Interpretation.** Any term not defined herein has the meaning ascribed to it in
17 the Code or the Bankruptcy Rules. The exhibits attached to this Plan are incorporated into
18 and are part of this Plan as if fully set forth in this Plan. The headings in this Plan are for
19 convenience of reference only and shall not limit or otherwise affect the provisions hereof.
20 The words “including” and “include” and other words of similar import shall be deemed to
21 be followed by the phrase “without limitation”.

ARTICLE II - PROVISIONS FOR THE ALLOWANCE AND PAYMENT OF UNCLASSIFIED CLAIMS, ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS

24 2. Unclassified Claims, Administrative Claims and Priority Tax Claims are not
25 classified under the Plan and shall be treated as follows:

1 **2.1 Section 507(a)(1) Claims.** Administrative Claims are not classified and shall be
2 treated as follows:

3 **2.1.1 Administrative Expense Claims.** Each holder of an Allowed
4 Administrative Expense Claim (including the DIP Financing Facility and cure costs
5 on Assumed Contracts and Leases) shall be paid in respect of such Claim in Cash, in
6 full, on the Effective Date, or, if such Claim has not been Allowed on or before the
7 Effective Date, promptly after the allowance of the Claim by a Final Order or as
8 otherwise due by agreement of the parties; provided, however, that such Claim may
9 be satisfied on such other terms as may be agreed by the holder of such Claim and the
10 Debtor. Allowed Administrative Expense Claims representing liabilities incurred in
11 the ordinary course of business by the Debtor shall be paid in accordance with the
12 agreed terms between the parties. On the Effective Date, all of the obligations of the
13 Debtor to the Postpetition Lenders under or in respect of the DIP Financing Facility
14 and the DIP Financing Order shall be assumed in accordance with the terms of the
15 fully and finally approved term sheet governing the DIP Financing Facility.

16 **2.1.2 Bar Date for Requests For Payment of an Administrative Expense.**
17 All requests for payment of an Administrative Expense Claim not covered by
18 previous bar dates, except for Professionals' requests for compensation and post-
19 petition extensions of trade credit for goods or services, taxes and quarterly U.S.
20 Trustee fees, shall be filed with the Court no later than thirty (30) days after the
21 Effective Date or be forever barred. Within five (5) days after the Effective Date,
22 Debtor shall serve notice of such Administrative Expense bar date on all known
23 parties asserting Administrative Expense Claims except for Professionals. A bar date
24 for Professionals' requests for compensation shall be set in the Confirmation Order.

25 **2.1.3 Deadline for Objections.** All objections to allowance of
26 Administrative Expense Claims must be filed by any parties in interest within thirty

1 (30) days after the Administrative Expense Claim bar date. If no objection to the
2 applicable Administrative Expense Claim is filed on or before that date, such
3 Administrative Expense Claim shall be deemed Allowed as of that date.

4 **2.1.4 U.S. Trustee Fees.** Quarterly fees owed to the Office of the U.S.
5 Trustee shall be paid when due in accordance with applicable law and the Debtor
6 shall continue to file reports to show the calculation of such fee for its estate until the
7 case is closed under Code § 350.

8 **2.2 Section 507(a)(8) Claims.** Priority Tax Claims are not classified and are treated
9 as follows:

10 **2.2.1 Priority Tax Claims.** Any holder of an Allowed Priority Tax Claim
11 shall receive at the Debtor's option (i) the amount of the Allowed Priority Tax Claim
12 in one Cash payment on or immediately after the Effective Date or (ii) the amount of
13 the Allowed Priority Tax Claim, with interest, in equal-annual Cash payments on each
14 anniversary of the Effective Date, until the last anniversary of the Effective Date that
15 precedes the sixth anniversary date of the date of assessment of the Allowed Priority
16 Tax Claim. The first payment shall commence 30 days following the later of (a) the
17 Effective Date or (b) the date upon which an order of the Court allowing such holder's
18 Allowed Priority Tax Claim becomes a Final Order. Such claim shall bear simple
19 interest at the rate of 5.5% per annum from the Confirmation Date and shall not be
20 discharged until paid in full. The claim may be pre-paid in whole or in part at any
21 time before then in Cash at the sole option of Reorganized Debtor. A Priority Tax
22 Claim that is a Contested Claim shall not receive any distribution on the Effective
23 Date or thereafter unless and until such Claim becomes an Allowed Priority Tax
24 Claim. Allowed Secured Claims for taxes will be satisfied first as non-classified
25 Priority Tax Claims to the extent they qualify as Priority Tax Claims, but shall retain
26 any collateral for such Claim until the Priority Tax Claim is paid in full. To the extent

1 that some or all of an Allowed Secured Claim for taxes does not qualify as a Priority
2 Tax Claim, but is a valid Allowed Secured Claim, it will be classified in Subclass 2en.

3 In the event of default by the Debtor of any of the provisions of the
4 Plan concerning an amount owed to a State Tax Agency, after thirty (30) days written
5 notice of the default and failure of the Debtor to cure, the entire amount owed to the
6 Tax agency shall be immediately due and owing and the Tax agency may proceed
7 with any remedies otherwise available to and under State Law including but not
8 limited to usual State Tax collection procedures.

9 **ARTICLE III - CLASSIFICATION OF CLAIMS AND INTERESTS**

10 **3.** All Claims against the Debtor and all Interests in the Debtor, as defined in
11 §§ 101(5), (16) and (17) of the Bankruptcy Code, are classified as set forth herein. Except as
12 provided in ¶ 3.2.5 below, a claim is in a particular Class only to the extent it qualifies within
13 the definition of such Class and is in a different Class or is Unclassified to the extent it
14 qualifies within the definition of such different Class or as Unclassified.

15 **3.1 Class 1 – Allowed Prepetition Priority Debt.** Class 1 consists of all Allowed
16 Claims against the Debtor entitled to priority pursuant to §§ 507(a)(3) through (5) of the
17 Bankruptcy Code.

18 **3.2 Class 2 – Allowed Secured Claims.** Class 2 consists of Allowed Secured Claims
19 against the Debtor. There are 5 Subclasses of Class 2 Claims. A list of the creditors in each
20 Subclass is attached as Exhibit IV to the Disclosure Statement.

21 **3.2.1 Subclass 2a:** The senior Allowed Secured Claim of Perkins Coie.

22 **3.2.2 Subclass 2b:** The second tier Allowed Secured Claim of the
23 Prepetition Secured Note Holders.

24 **3.2.3 Subclass 2c:** The third tier Allowed Secured Claim of Perkins Coie
25 and the Prepetition Secured Note Holders.

1 **3.2.4 Subclass 2d:** The fourth tier Allowed Secured Claim of the Prepetition
2 Secured Note Holders.

3 **3.2.5 Subclass 2e:** The Allowed Secured Claim of any other creditor
4 holding a claim secured by assets of the estate, each of which are separately classified
5 in their own distinct sub-classes Class 2e-1 through 2e-n. To the extent that a Secured
6 Tax Claim is also a Priority Tax Claim, such Claim shall be paid as Priority Tax
7 Claims but the holder of such claim shall retain its lien on collateral in its existing
8 priority until paid in full. To the extent a Secured Tax Claim is not a Priority Tax
9 Claim, it shall be paid in the manner set forth in ¶ 5.2.5 below.

10 **3.3 Class 3 - Allowed General Unsecured Claims.** Class 3 consists of Allowed
11 Unsecured Claims against the Debtor, however arising, not entitled to priority and not
12 otherwise included in any other Class hereof, including, without limitation, claims based
13 upon the rejection of executory contracts or unexpired leases.

14 **3.4 Class 4 - Allowed Interests.** All Allowed Interests in the Debtor. There are
15 seven Subclasses of Class 4 Interests.

16 **3.4.1 Subclass 4a.** All Allowed Interests in the Debtor held by the holders of
17 the Debtor's Series A Preferred Stock.

18 **3.4.2 Subclass 4b.** All Allowed Interests in the Debtor held by the holders
19 of the Debtor's Series B Preferred Stock.

20 **3.4.3 Subclass 4c.** All Allowed Interests in the Debtor held by the holders of
21 the Debtor's Series C Preferred Stock.

22 **3.4.4 Subclass 4d.** All Allowed Interests in the Debtor held by the holders
23 of the Debtor's Series D Preferred Stock.

24 **3.4.5 Subclass 4e.** All Allowed Interests in the Debtor held by the holders of
25 the Debtor's Series E Preferred Stock.

1 **3.4.6 Subclass 4f.** All Allowed Interests in the Debtor held by the holders of
2 the Debtor's common stock.

3 **3.4.7 Subclass 4g.** All Allowed Interests in the Debtor held by the holders of
4 Option Rights.

5 **ARTICLE IV - IDENTIFICATION OF IMPAIRED CLASSES OF**
6 **CLAIMS AND INTERESTS**

7 **4. Impaired Classes of Claims and Interests.** Classes 1, 2, 3, and 4 and
8 applicable subclasses therein are Impaired under this Plan.

9 **ARTICLE V - PROVISIONS FOR TREATMENT OF CLASSIFIED**
10 **CLAIMS AND INTERESTS**

11 **5.** The treatment of all Allowed Claims and Allowed Interests are specified as
12 follows:

13 **5.1 Priority Claims:**

14 **5.1.1 Class 1 Claims.** Class 1 is Impaired. Each holder of a Class 1
15 Allowed Claim shall be paid the entire amount of such holder's Allowed Claim by the
16 Reorganized Debtor on the later of (a) the Effective Date or (b) the date upon which
17 an order of the Court allowing such claim becomes a Final Order. There shall be
18 credited against any Class 1 Allowed Claim any Post Petition Date payments made to
19 the holder of such Class 1 Allowed Claim.

20 **5.2 Secured Claims:** Class 2 Claims consist of all Allowed Secured Claims. Class 2
21 Claims are further divided into separate Subclasses 2a through 2e, the treatment of which is
22 specified below.

23 **5.2.1 Subclass 2a.** Subclass 2a is Impaired.

24 The holder of the Subclass 2a Allowed Secured Claim, Perkins Coie, shall be
25 paid \$400,000 in cash on the Effective Date, in full and complete satisfaction
26 of all of Perkins Coie's Allowed Claims, including, but not limited to, those

1 claims in Subclass 2a and Subclass 2c. If, on the Effective Date, Chris
2 Kosmos has not contributed or caused to be contributed sufficient funds to pay
3 Perkins Coie \$400,000, Chris Kosmos has agreed to provide and Perkins has
4 agreed to accept, in full satisfaction of its claims, a secured personal guaranty
5 (not to exceed \$200,000 in original principal amount) from Chris Kosmos (in a
6 form acceptable to Perkins Coie) for the amount then due and owing but
7 unpaid under the Settlement Agreement and the Plan. The payment to Perkins
8 Coie on the Effective Date shall be at least \$200,000. Satisfaction of the terms
9 of the Settlement Agreement resolve Perkins Coie's Subclass 2a and Subclass
10 2c Allowed Secured Claims. Upon satisfaction of the terms of the Settlement
11 Agreement, the Company releases all of its claims against Perkins Coie,
12 including the release of the Company's indemnification rights. Upon
13 satisfaction of the terms of the Settlement Agreement, Perkins Coie releases all
14 of its claims against the Company including the satisfaction of all pre-
15 confirmation fees and costs incurred by Perkins Coie, and all fees and costs
16 incurred during the bankruptcy process.

17 **5.2.2 Subclass 2b.** Subclass 2b is Impaired. The Subclass 2b Allowed
18 Secured Claims shall be paid and satisfied in the manner set forth in ¶ 5.2.2.1 below,
19 unless the holder of a particular claim elects to receive the treatment specified in ¶
20 5.2.2.2 or ¶ 5.2.2.3 below.

21 5.2.2.1. The holder of the Subclass 2b Allowed Secured Claim shall
22 retain all its liens encumbering the property revalued in the Reorganized
23 Debtor and the Reorganized Debtor shall pay the holder of such Secured
24 Claim an amount equal to (i) 36 monthly payments of interest only, then (ii)
25 36 monthly payments in the amount necessary to fully amortize the amount of
26 such holder's Secured Claim over a period of time fifteen years from the date

1 of Confirmation, then (iii) a balloon payment equal to the entire remaining
2 amount due on the Subclass 2b Allowed Secured Claim. The first payment, of
3 interest only, shall commence 30 days following the later of (a) the Effective
4 Date or (b) the date upon which an order of the Court allowing such holder's
5 Secured Claim becomes a Final Order. Such claim shall bear simple interest at
6 the rate of 5.5% per annum. Subject to the prepayment obligation contained in
7 ¶ 7.3 below, a Subclass 2b Claim may be pre-paid in whole or in part at any
8 time in Cash at the sole option of the Reorganized Debtor.

9 5.2.2.2. If a holder of a Subclass 2b Allowed Secured Claim votes in
10 favor of the Plan, it may elect to receive a Convertible Financing B-Note in a
11 face amount equal to the Class 2b Allowed Secured Claim and be paid in
12 accordance with the terms of such Convertible Financing B-Note. The
13 election must be made on or before the date fixed by the Court for filing
14 objections to the confirmation of this Plan. The provisions of this ¶ 5.2.2.2
15 shall be void and of no further force or effect with respect to the holder of the
16 Class 2b Allowed Secured Claim in the event such holder fails to timely elect
17 to receive the treatment specified herein.

18 5.2.2.3. In the event the holder of the Subclass 2b Allowed Secured
19 Claim votes in favor of the Plan and timely executes and returns a
20 Subscription Commitment Agreement then such holder shall receive a
21 Convertible Financing A-Note in a face amount equal to One Hundred Percent
22 (100%) of that portion of the Class 2b Allowed Secured Claim that equals the
23 amount of the Subscription Commitment and to the extent such holder has also
24 timely elected to receive a Convertible Financing B-Note, then such holder
25 shall also receive a Convertible Financing B-Note for the balance, if any, of
26 the Class 2b Allowed Secured Claim, and shall be paid in accordance with the

1 terms of such convertible financing notes. The execution and return of the
2 Subscription Commitment Agreement must be made on or before the
3 Subscription Expiration Date. The provisions of this ¶ 5.2.2.3 shall be void
4 and of no further force or effect with respect to the holder of the Class 2b
5 Allowed Secured Claim in the event such holder fails to vote in favor of the
6 Plan or to timely execute and return a Subscription Commitment Agreement.

7 **5.2.3 Subclass 2c.** Subclass 2c is Impaired. The Subclass 2c Allowed
8 Secured Claims (except the Subclass 2c Allowed Secured Claim of Perkins Coie)
9 shall be paid and satisfied in the manner set forth in ¶ 5.2.3.1 below, unless the holder
10 of a particular claim elects to receive the treatment specified in ¶ 5.2.3.2 or ¶ 5.2.3.3
11 below; provided, however, that Perkins Coie's Subclass 2c Allowed Secured Claim
12 shall be satisfied pursuant to the provisions set forth in Subclass 2a above and none of
13 the provisions of ¶¶ 5.2.3.1, 5.2.3.2, or 5.2.3.3 shall apply to such claim.

14 5.2.3.1. The holder of the Subclass 2c Allowed Secured Claim shall
15 retain all its liens encumbering the property revested in the Reorganized
16 Debtor and the Reorganized Debtor shall pay the holder of such Secured
17 Claim an amount equal to (i) 36 monthly payments of interest only, then
18 (ii) 36 monthly payments in the amount necessary to fully amortize the amount
19 of such holder's Secured Claim over a period of time fifteen years from the
20 date of Confirmation, then (iii) a balloon payment equal to the entire
21 remaining amount due on the Subclass 2c Allowed Secured Claim. The first
22 payment, of interest only, shall commence 30 days following the later of (a)
23 the Effective Date or (b) the date upon which an order of the Court allowing
24 such holder's Secured Claim becomes a Final Order. Such claim shall bear
25 simple interest at the rate of 5.5% per annum. Subject to the prepayment
26 obligation contained in ¶ 7.3 below, a Subclass 2c Claim may be pre-paid in

1 whole or in part at any time in Cash at the sole option of the Reorganized
2 Debtor.

3 5.2.3.2. If a holder of a Subclass 2c Allowed Secured Claim votes in
4 favor of the Plan, it may elect to receive a Convertible Financing B-Note in a
5 face amount equal to the Class 2c Allowed Secured Claim and be paid in
6 accordance with the terms of such Convertible Financing B-Note. The
7 election must be made on or before the date fixed by the Court for filing
8 objections to the confirmation of this Plan. The provisions of this ¶ 5.2.3.2
9 shall be void and of no further force or effect with respect to the holder of the
10 Class 2c Allowed Secured Claim in the event such holder fails to timely elect
11 to receive the treatment specified herein.

12 5.2.3.3. In the event the holder of the Subclass 2c Allowed Secured
13 Claim votes in favor of the Plan and timely executes and returns a
14 Subscription Commitment Agreement then such holder shall receive a
15 Convertible Financing A-Note in a face amount equal to One Hundred Percent
16 (100%) of that portion of the Class 2c Allowed Secured Claim that equals the
17 amount of the Subscription Commitment and to the extent such holder has also
18 timely elected to receive a Convertible Financing B-Note, then such holder
19 shall also receive a Convertible Financing B-Note for the balance, if any of the
20 Class 2c Allowed Secured Claim, and shall be paid in accordance with the
21 terms of such convertible financing notes. The execution and return of the
22 Subscription Commitment Agreement must be made on or before the
23 Subscription Expiration Date. The provisions of this ¶ 5.2.3.3 shall be void
24 and of no further force or effect with respect to the holder of the Class 2c
25 Allowed Secured Claim in the event such holder fails to vote in favor of the
26 Plan or to timely execute and return a Subscription Commitment Agreement.

1 **5.2.4 Subclass 2d.** Subclass 2d is Impaired. The Subclass 2d Allowed
2 Secured Claims shall be paid and satisfied in the manner set forth in ¶ 5.2.4.1 below,
3 unless the holder of a particular claim elects to receive the treatment specified in ¶
4 5.2.4.2 or ¶ 5.2.4.3 below.

5 5.2.4.1. The holder of the Subclass 2d Allowed Secured Claim shall
6 retain all its liens encumbering the property re vested in the Reorganized
7 Debtor and the Reorganized Debtor shall pay the holder of such Secured
8 Claim an amount equal to (i) 36 monthly payments of interest only, then
9 (ii) 36 monthly payments in the amount necessary to fully amortize the amount
10 of such holder's Secured Claim over a period of time fifteen years from the
11 date of Confirmation, then (iii) a balloon payment equal to the entire
12 remaining amount due on the Subclass 2d Allowed Secured Claim. The first
13 payment, of interest only, shall commence 30 days following the later of (a)
14 the Effective Date or (b) the date upon which an order of the Court allowing
15 such holder's Secured Claim becomes a Final Order. Such claim shall bear
16 simple interest at the rate of 5.5% per annum. Subject to the prepayment
17 obligation contained in ¶ 7.3 below, a Subclass 2d Claim may be pre-paid in
18 whole or in part at any time in Cash at the sole option of the Reorganized
19 Debtor.

20 5.2.4.2. If a holder of a Subclass 2d Allowed Secured Claim votes in
21 favor of the Plan, it may elect to receive a Convertible Financing B-Note in a
22 face amount equal to the Class 2d Allowed Secured Claim and be paid in
23 accordance with the terms of such Convertible Financing B-Note. The
24 election must be made on or before the date fixed by the Court for filing
25 objections to the confirmation of this Plan. The provisions of this ¶ 5.2.4.2
26 shall be void and of no further force or effect with respect to the holder of the

1 Class 2d Allowed Secured Claim in the event such holder fails to timely elect
2 to receive the treatment specified herein.

3 5.2.4.3. In the event the holder of the Subclass 2d Allowed Secured
4 Claim votes in favor of the Plan and timely executes and returns a
5 Subscription Commitment Agreement then such holder shall receive a
6 Convertible Financing A-Note in a face amount equal to One Hundred Percent
7 (100%) of that portion of the Class 2d Allowed Secured Claim that equals the
8 amount of the Subscription Commitment and to the extent such holder has also
9 timely elected to receive a Convertible Financing B-Note, then such holder
10 shall also receive a Convertible Financing B-Note for the balance, if any of the
11 Class 2d Allowed Secured Claim, and shall be paid in accordance with the
12 terms of such convertible financing notes. The execution and return of the
13 Subscription Commitment Agreement must be made on or before the
14 Subscription Expiration Date. The provisions of this ¶ 5.2.4.3 shall be void
15 and of no further force or effect with respect to the holder of the Class 2d
16 Allowed Secured Claim in the event such holder fails to vote in favor of the
17 Plan or to timely execute and return a Subscription Commitment Agreement.

18 **5.2.5 Subclass 2e.** Subclass 2e is Impaired. The Class 2e Claims consist of
19 all Allowed Secured Claims, if any, held by Persons other than holders of Allowed
20 Secured Claims in Subclass 2a through 2d under this Plan. Subclass 2e Claims are
21 further divided into separate classes 2e-1 through 2e-n. The holder of any claim in
22 Subclass 2e shall receive the treatment specified in ¶ 5.2.5.1, unless the holder of a
23 particular claim elects to receive the treatment specified in ¶ 5.2.5.2 below.

24 5.2.5.1. Following the identification of the holder of any Subclass 2e
25 Allowed Secured Claim, the Reorganized Debtor may (A) elect to retain the
26 collateral securing such claim and the holder of such 2e-n Allowed Secured